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UNITED STATES DEPARTMENT OF AGRICULTURE
Food Distribution Administration
Washington, D. C.

April 5, 1943

PERSONNEL DIVISION MEMORANDUM NO. 8
Supplement 5

To: Branch and Division Chiefs and Regional Administrators
From: Frederick C. McMillen, Chief, Personnel Division
Subject: Leave

Attention is invited to Personnel Circular 107 (Revision I), Supplement No. 5 dated February 16, 1943, amending the leave regulations of the Department with reference to the granting of accumulated and current accrued annual leave. This Personnel Circular has already been distributed.

In Personnel Division Memorandum No. 8, Supplement No. 4, dated January 20, there was quoted Public Law 806, 77th Congress, approved December 17, 1942. The second paragraph of this Personnel Division Memorandum referred to an interpretation of the provisions of the new law, but since the issuance of that memorandum, this interpretation has been changed by reason of a decision of the Comptroller General.

In the decision of the Comptroller General (B-31772, dated January 26, 1943), the Comptroller held that the provisions of the act may be regarded as retroactively effective to September 8, 1939. In the case covered in this decision, the Comptroller General "authorized the recrediting to an employee of accumulated annual leave in excess of 60 days which he otherwise would have lost on January 1, 1940, January 1, 1941, January 1, 1942, and January 1, 1943, subject to the limitation of 15 days unused leave in excess of 60 days for any one calendar or leave year.

"For instance, if an employee had accumulated 75 or more days unused leave up to January 1, 1940 (not counting any leave which had been forfeited prior to September 8, 1939) he can have recredited to him as of January 1, 1940, not to exceed 15 days of the unused portion of his annual leave for the calendar or leave year 1939, and so on for the succeeding calendar or leave years, subject to the maximum accumulated leave credit of 90 days."

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The leave records of employees now serving in Washington, D. C. and Beltsville, Maryland are being reviewed and necessary adjustments made by the Washington Personnel Division. The records prior to January 1, 1943 covering field employees will also be reviewed and Regional Personnel Divisions will be advised of any leave that should be recredited by reason of the operation of the act of December 17, 1942.

In the case of employees on military furlough, any leave which may be subject to recrediting by virtue of the act of December 17, 1942 may be carried over by the employee in a military status, or the employee may, if he so desires, make application for this leave and be paid for it in accordance with existing law. In these cases, it will, of course, be necessary to change the effective date of the furlough without pay action.

On the other hand, in the case of employees who have been completely separated from the service, it will not be possible to reimburse them for any leave in excess of 60 days that may have been lost by reason of the regulations in effect prior to the act of December 17, 1942.

For your information, there is quoted below Executive Order 9307, dated March 3, 1943 amending Executive Order 8384 of March 29, 1940 prescribing regulations relating to annual leave.

"By virtue of and pursuant to the authority vested in me by section 7 of the act of March 14, 1936, entitled "An Act to provide for vacations to Government employees, and for other purposes" (49 Stat. 1161), as amended by the act of December 17, 1942 (Public Law 806 - 77th Congress), Executive Order No. 8384 of March 29, 1940, prescribing regulations relating to the annual leave of Government employees is hereby amended as follows:

1. Section 1 (f) of the said Executive order is amended to read as follows:

"'Accumulated leave' means the unused annual leave not exceeding sixty days, or not exceeding ninety days in case unused annual leave has accumulated during the national emergency declared by the President on September 8, 1939, is included, which has accrued during years prior to the current year in accordance with the provisions of section 2 of these Regulations."

2. Section 2 of the said Executive order is amended to read as follows:

"(a) Permanent employees who have been employed continuously for one year or more and who do not contemplate leaving the service during the current calendar year shall be entitled to current annual leave with pay at any time during such calendar year not in excess of twenty-six days.

"(b) In addition to current annual leave, employees may be granted accumulated leave in accordance with the following subsections.

"(c) That part of any current annual leave which is not used by an employee in any calendar year shall be accumulated and be available for succeeding years to the extent that it does not exceed sixty days.

"(d) Upon the accumulation of the sixty days of leave provided for in the preceding subsection, employees may accumulate not to exceed thirty additional days of leave during the national emergency declared by the President on September 8, 1939. Such additional accumulation shall not exceed fifteen days in any calendar year and shall apply only to annual leave which has accrued after September 8, 1939, and has not been used. Such additional leave as may be accumulated by the employee under this subsection shall continue to be available to the employee after the emergency shall have ceased to exist. Departments and agencies having employees subject to the annual leave regulations prescribed by the said Executive Order No. 8384, as herein amended, shall take such steps as may be necessary to adjust the leave records of such employees retroactively so as to make this subsection effective as of September 8, 1939."

Frederick C. McMillen

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